

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**GREGORY LEWIS JOHNSON #251263, )**

**Plaintiff, )**

**vs. )**

**NO. 2:08-cv-191-MEF**

**OFFICER BROWN, et al., )**

**Defendants. )**

**SPECIAL REPORT AND ANSWER**

COME NOW Defendants Officers Roosevelt Brown, Michael Holland, Michael Padgett, and Felicia Williams, by and through undersigned counsel in the above-styled action, and file their Special Report and Answer, pursuant to the March 31, 2008, of this Honorable Court. (Doc. 4) Defendants state as follow:

**PLAINTIFF'S ALLEGATIONS**

Plaintiff alleges he was subjected to cruel and unusual punishment through use of force by the named Defendants.

**DEFENDANTS**

1. Officer Roosevelt Brown  
Ventress Correctional Facility  
P.O. Box 767  
Clayton, AL 36016
2. Officer Michael Holland  
Ventress Correctional Facility  
P.O. Box 767  
Clayton, AL 36016
3. Officer Michael Padgett  
Ventress Correctional Facility  
P.O. Box 767  
Clayton, AL 36016

4. Officer Felicia Williams  
Ventress Correctional Facility  
P.O. Box 767  
Clayton, AL 36016

### **DEFENSES**

Defendants assert the following defenses to Plaintiff's claims:

1. Defendants deny each and every material allegation contained in Plaintiff's Complaint and demand strict proof thereof.
2. Defendants plead not guilty to the charges in Plaintiff's Complaint.
3. Plaintiff's complaint fails to state a claim upon which relief can be granted.
4. Plaintiff is not entitled to any of the relief requested.
5. Defendants plead the defense of qualified immunity and aver that any purported action taken by any of them was reasonable and in good faith with reference to clearly established law at the time of the incidents complained of by Plaintiff.
6. Defendants are entitled to qualified immunity and aver it is clear from the face of the complaint that Plaintiff has not alleged specific facts indicating that any Defendant violated any clearly established constitutional right.
7. Plaintiff is not entitled to any relief under 42 U.S.C. §1983.
8. The allegations contained in Plaintiff's Complaint against Defendants, fails to comply with the heightened specificity requirement of Rule 8 in §1983 cases against persons sued in their individual capacities. See Oladeinde v. City of Birmingham, 963 F. 2d 1481, 1485 (11<sup>th</sup> Cir. 1992); Arnold v. Board of Educ. of Escambia County, Ala., 880 F. 2d 305, 309 (11<sup>th</sup> Cir. 1989).
9. Defendants plead all applicable immunities, including but not limited to qualified, absolute, sovereign, discretionary function immunity, and state agent immunity.

10. Defendants were at all times acting under the color of state law and therefore, they are each entitled to substantive immunity.
11. Defendants plead the general defense.
12. This Court lacks subject matter jurisdiction due to the fact that even if Plaintiff's allegations should be proven, the allegations against these Defendants would amount to mere negligence which is not recognized as a deprivation of the Plaintiff's constitutional rights.
13. All claims of Plaintiff against these Defendants in their official capacities are barred by the Eleventh Amendment to the United States Constitution.
14. Defendants plead the affirmative defense that Plaintiff's Complaint fails to contain a detailed specification and factual description of the acts and omissions alleged to render them liable to Plaintiff.
15. Defendants plead the affirmative defense that Plaintiff has failed to mitigate his own damages.
16. Plaintiff has failed to exhaust his administrative remedies as mandated by the Prison Litigation Reform Act amendment to 42 U.S.C. §1997e(a) and as such these claims should be dismissed.
17. Defendants plead the affirmative defense that they are not guilty of any conduct which would justify the imposition of punitive damages against any of them and that any such award would violate the United States Constitution.
18. Pursuant to 28 U.S.C. §1915 A, this Court is requested to screen and dismiss this case, as soon as possible, either before or after docketing, as this case is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks

money damages from Defendants who are state officers entitled to immunity as provided for in 42 U.S.C. §1997 (e) (c).

19. Defendants reserve the right to raise additional defenses.

**DISCLOSURES**

In accordance with the March 31, 2008, Special Report Order (Doc. 4), Defendants submit the following initial disclosures:

A. Attached affidavits of:

1. Officer Roosevelt Brown
2. Officer Michael Holland
3. Officer Michael Padgett
4. Officer Felicia Williams

B. The following persons may have personal knowledge of the facts relevant to the claims asserted by Plaintiff or the defenses asserted by Defendants:

Officer Roosevelt Brown

Officer Michael Holland

Officer Michael Padgett

Officer Felicia Williams

Gregory Lewis Johnson, Plaintiff

Sergeant Carolyn Longmire

Captain Larry Monk

Inmate Earnest Nix #162409

C. Clear and legible copies of the documents relevant to claims or defenses asserted in the action are as follows:

5. Inmate Summary Data
6. Incident Report dated July 7, 2007
7. Body Chart dated July 7, 2007
8. Disciplinary Report

#### **STATEMENT OF THE FACTS**

Plaintiff is an inmate within the ADOC and is currently confined at Easterling Correctional Facility in Clio, Alabama. Plaintiff is serving a 12-year term for Assault II, a 15-year term for Burglary II, a 15-year term for Receiving Stolen Property I, and a 1-year-10-month term for Fraudulent Use of and/or Representation of a Credit Card. (Ex. 5) There sentences are running concurrent. (Ex. 5)

On July 7, 2007, Inmate Earnest Nix approached Defendant Brown stating that Plaintiff had broken into his locker box and had stolen five (5) Buglers and one (1) Pro 35 Headphone set. (Exs. 1, 6) A shakedown was conducted of Plaintiff and his locker box and none of the items were found. (Exs. 1, 6) Sgt. Longmire was notified of this incident. (Exs. 1, 6) She began to question Plaintiff and Inmate Nix. (Exs. 1, 6) Several reliable sources witnessed Plaintiff steal items from Inmate Nix and place them in another inmate's locker box. (Ex. 6) A shakedown of that inmate and his locker box yielded the stolen items. (Exs. 1, 6) Captain Monk was also notified of this matter. (Exs. 1, 6) Defendant Holland escorted Plaintiff to the Healthcare Unit. (Exs. 2, 6)

The body chart for Plaintiff did not show any signs that force was used upon Plaintiff or that he was subjected to any cruel and unusual punishment. (Ex. 7)

Specifically, the body chart shows “denies physical contact or altercation (with) anyone.”

(Ex. 7)

Defendants Padgett and Williams have no knowledge of the incident. (Exs. 3, 4)

Plaintiff received a disciplinary for his actions and two (2) months of good time was revoked from his sentence.

## **ARGUMENT**

### **Immunities**

Defendants are officials or agents of the State of Alabama, Plaintiff’s official-capacity claims must be considered to be against the State itself. This affords Defendants Eleventh Amendment immunity; the State need not actually be named as a party for such immunity to be available. See Williams v. Bennett, 689 F.2d 1370, 1376 (11th Cir. 1982), cert. denied 464 U.S. 932 (1983). Thus, Plaintiff’s federal claims for damages against the Defendants in their official capacities are barred by Eleventh Amendment immunity and should be dismissed.

Defendants are entitled to qualified immunity regarding the individual-capacity federal claims stated in Plaintiff’s complaint. The basic test for qualified immunity was stated in Harlow v. Fitzgerald, 457 U.S. 800 (1982):

[G]overnment officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate “clearly established” statutory or constitutional rights of which a reasonable person would have known.

457 U.S. at 818. Qualified immunity bars claims “so long as [the defendant’s] actions could reasonably have been thought consistent with the rights they are alleged to have violated.” Anderson v. Creighton, 483 U.S. 635, 638 (1987). Further, qualified immunity

is not just a bar to damages; it is a bar to suit. Mitchell v. Forsyth, 472 U.S. 511, 526 (1985). Even allegations of animus by a state actor against a plaintiff are not sufficient to overcome the presumption of qualified immunity. See Hansen v. Soldenwagner, 19 F.3d 573, 578 (11<sup>th</sup> Cir. 1994) (stating that “[f]or qualified immunity purposes, the subjective motivation of the defendant-official is immaterial”). Also, in Gardner v. Howard, 109 F.3d 427, 429-430 (8<sup>th</sup> Cir. 1997), the Eighth Circuit held “[q]ualified immunity shields government officials from §1983 damage liability unless their conduct violates ‘clearly established statutory or constitutional rights of which a reasonable person would have known.’” (Citing Harlow, 457 U.S. 800).

The justification for qualified immunity is that such immunity is necessary in order for the government to effectively function. If not for the protections of immunity, state officials could be subject to suit for every move they make, which would have a serious chilling effect on the ability of such officials to do their jobs. In sum, state officials should be allowed to exercise discretion in the performance of their duties without fear of a lawsuit around every corner. Mitchell, 472 U.S. at 525-26; see also Hunter v. Bryant, 502 U.S. 224, 229 (1991); Burrell v. Bd. of Trustees of Ga. Military College, 970 F.2d 785, 794 (11<sup>th</sup> Cir. 1992), cert. denied, 507 U.S. 1018 (1983).

In the present case, Defendants deny that they violated “a clearly established right” of the Plaintiff. As such, it is incumbent upon Plaintiff to show that Defendants violated “clearly established constitutional law” in their dealings with Plaintiff. See Zeigler v. Jackson, 716 F.2d 847, 849 (11<sup>th</sup> Cir. 1983) (holding that it is a plaintiff’s burden to rebut a defendant’s qualified immunity defense). This, however, has not been and cannot be demonstrated by Plaintiff. He has alleged no constitutional injury

perpetrated by any Defendant. Because Plaintiff cannot demonstrate that any of his clearly established constitutional rights have been infringed, qualified immunity bars his attempt to impose liability on Defendants. Therefore, Plaintiff's federal claims against Defendants in their individual capacities should be dismissed.

### **Use of Force**

Plaintiff is bringing his claims under the provisions of 42 U.S.C. §1983. Section 1983 states:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding.

This section "provides a remedy when a person acting under color of state law deprives a plaintiff of a right, privilege, or immunity secured by the Constitution, laws or treaties of the United States." Sasser v. Alabama Department of Corrections, 373 F.Supp.2d 1276, 1290 (M.D. Ala. 2005) "In order to establish a claim under Section 1983, a plaintiff must show a violation of a right secured by the Constitution of the United States, and also that the deprivation of that right was committed by a person acting under color of state law." Id.; see Graham v. Connor, 490 U.S. 386, 393-94 (1989); Cummings v. DeKalb County, 24 F.3d 1349, 1355 (11<sup>th</sup> Cir. 1994).

Plaintiff claims force was used against him on or about July 7, 2007. This claim is without merit. There was no force used at any time while Defendants were with Plaintiff. In fact, Plaintiff stated to medical staff that he had not been in physical contact or altercation with anyone. (Ex. 7) Plaintiff claims that the actions of Defendants



violated his Eighth Amendment right to be free from cruel and unusual punishment. The Eighth Amendment's prohibition of cruel and unusual punishment is triggered when a prisoner is subjected to an "unnecessary and wanton infliction of pain." Whitley v. Albers, 475 U.S. 312, 319 (1986). The United States Supreme Court held in Hudson v. McMillian, 503 U.S. 1, 7 (1992), that "whenever prison officials stand accused of using excessive physical force in violation of the Cruel and Unusual Punishments Clause, the core judicial inquiry [in determining whether a prisoner has suffered unnecessary and wanton pain] is that set out in Whitley: whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." In extending Whitley to all cases involving allegations of force, the Court reasoned:

Many of the concerns underlying our holding in *Whitley* arise whenever guards use force to keep order. Whether the prison disturbance is a riot or a lesser disruption, corrections officers must balance the need "to maintain or restore discipline" through force against the risk of injury to inmates. Both situations may require prison officials to act quickly and decisively. Likewise, both implicate the principle that "[p]rison administrators ... should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security."

Id. at 6. (Citations omitted). With these concerns in mind, the court set out certain factors that should be considered in evaluating whether the use of force was wanton and unnecessary. These factors include: 1) the need for the application of force; 2) the relationship between the need and the amount of force used; 3) the threat reasonably perceived by the prison official; 4) any efforts made to temper the severity of a forceful response; and 5) the extent of the injury suffered by the inmate. The Hudson Court made it clear that the extent of injury suffered by the inmate is only one of the many factors

which should be considered, not a decisive one when it said, "[t]he absence of serious injury is therefore relevant to the Eighth Amendment inquiry, but does not end it." Id. at 7. In this circuit, in order to avoid summary judgment on an excessive force claim, the plaintiff is required to produce some evidence of injury beyond a minimal one. Bennett v. Parker, 898 F.2d 1530 (11<sup>th</sup> Cir. 1990). There is no need to address these factors as force was not used. In this case, Plaintiff has stated and there is evidence that there were no injuries at all. (Ex. 7) Thus, Plaintiff was not subjected to force or to cruel and unusual punishment.

In Embry v. Smith, (No. 88-7420, November 3, 1989) (11<sup>th</sup> Cir. 1989), the Eleventh Circuit stated "[t]his court has long recognized that the eighth amendment provides a prisoner with a right to be protected from the constant threat of violence and that the failure of prison officials to protect prisoners from violence can, in certain cases, constitute cruel and unusual punishment." See Gullatte v. Potts, 654 F.2d 1007, 1012 (5<sup>th</sup> Cir. Unit B 1981). However, as the Gullatte Court noted, [t]his does not mean that the constitutional rights of inmates are violated every time a prisoner is injured." Id.; See also Daniels v. Williams, 474 U.S. 327, 332 (1986). To state a claim under §1983 for violation of the Eighth Amendment, a prisoner must show that the prison officials acted with at least deliberate indifference to the safety of the prisoner. See Zatler v. Wainwright, 802 F.2d 397, 400 (11<sup>th</sup> Cir. 1986). Thus, a prisoner must show that the officials had some awareness of danger to a particular inmate's safety and failed to afford the prisoner protection. Gullatte, 654 F.2d at 1012. As stated, no force was used and there were no injuries to Plaintiff. (Exs. 1, 2, 6, 7, 8) There was no need for a person to protect Plaintiff from force or cruel and unusual punishment as none was present.

Wherefore these premises considered, Defendants pray that this Honorable Court will find that Plaintiff is not entitled to any relief and this complaint should be dismissed.

Respectfully submitted,

/s/TARA S. KNEE  
TARA S. KNEE  
ASSISTANT ATTORNEY GENERAL  
ASSISSTANT GENERAL COUNSEL

**ADDRESS OF COUNSEL:**

Alabama Department of Corrections  
Legal Division  
Post Office Box 301501  
Montgomery, Alabama 36130-1501  
(334) 353-3881

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9<sup>th</sup> day of May, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following (or by U.S. Mail to the non-CM-ECF participants):

Inmate Gregory Lewis Johnson  
AIS #215263  
Easterling Correctional Facility  
200 Wallace Drive  
Clio, AL 36017

/s/Tara S. Knee  
Tara S. Knee  
Assistant Attorney General  
Assistant General Counsel

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

Gregory Lewis Johnson	)	
#215265	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO. 02-CV-191-MEF
vs.	)	
	)	
Officer Brown, et. al.	)	
	)	
Defendants.	)	

**A F F I D A V I T**

Before me, the undersigned authority, a Notary Public in and for said County and State of Alabama at Large, personally appeared one Roosevelt Brown, who being known to me and by me first duly sworn, deposes and says on oath as follows:

My name is Roosevelt Brown, and I am presently employed as a Correctional Officer, with the Alabama Department of Corrections at the Ventress Correctional Facility in Clayton, Alabama. I am over the age of twenty-one (21).

In his complaint served on me, Inmate Gregory Lewis Johnson #215265 alleges that Officer Padgett and myself questioned him about a box break in on July 7, 2007 and that we slapped, punched and kneed him while questioning him.



Page 2  
Affidavit – Roosevelt Brown

On July 7, 2007 at approximately 12:45 p.m., I, Officer Roosevelt Brown was approached by Inmate Earnest Nix, B/162409 stating that Bed #20B had broken into his locker box and stolen five (5) packs of Bugler and one (1) Pro 35 Headphone. I then identified Bed #20B as belonging to Inmate Gregory Johnson, B/215263. I began to conduct a shakedown and no items were found. I escorted Inmate Johnson to the lobby. At approximately 1:10 p.m., Sgt. Carolyn Longmire was notified of the incident. Sgt. Longmire questioned inmates' Nix and Johnson concerning the incident. Upon further investigation, it was revealed from several reliable inmates that witnessed Inmate Johnson break into Inmate Nix's box and put the items in another inmate's box. I, Officer Brown conducted a shakedown of said inmate box, and found the buglers, but the headphones were not found. At approximately 1:25 p.m., Sgt. Carolyn Longmire notified the On-Call Supervisor, Captain Marshall L. Monk of the incident.

I, Officer Roosevelt Brown did initiate disciplinary action against Inmate Johnson for Rule Violation #68, "Theft, Damage or Destruction of Another's Personal Property", from Administrative Regulation 403. At approximately 1:35 p.m., Officer Michael Holland escorted Inmate Johnson to the Health Care Unit for a body chart. (See attached body chart)

The above-related facts are the entirety of my involvement with inmate Brown regarding these allegations. I deny that I have violated any of his constitutional

Page 3  
Affidavit – Roosevelt Brown

rights and I have not put my hands on Inmate Gregory Johnson, #215265  
concerning this incident.

Roosevelt Brown co. 4-15-08  
Roosevelt Brown, C O Date

STATE OF ALABAMA )

BARBOUR COUNTY )

SWORN TO AND SUBSCRIBED BEFORE ME THIS 15<sup>th</sup> DAY OF APRIL,  
2008.

Reba J Currie  
Notary Public

My Commission Expires: 9-8-08

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

Gregory Lewis Johnson	)	
#215265	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO. 02-CV-191-MEF
vs.	)	
	)	
Officer Brown, et. al.	)	
	)	
Defendants.	)	

**A F F I D A V I T**

Before me, the undersigned authority, a Notary Public in and for said County and State of Alabama at Large, personally appeared one Michael Holland, who being known to me and by me first duly sworn, deposes and says on oath as follows:

My name is Michael Holland, and I am presently employed as a Correctional Officer, with the Alabama Department of Corrections at the Ventress Correctional Facility in Clayton, Alabama. I am over the age of twenty-one (21).

In his complaint served on me, Inmate Gregory Lewis Johnson #215265 alleges that Officer Roosevelt Brown and myself slapped, punched and kneed him several times while he was handcuffed.

On July 7, 2007 at approximately 12:45 p.m., I, Officer Michael Holland was called to F1 Dormitory to investigate a box break -in, by Inmate Gregory



Page 2

Affidavit – Michael Holland

Johnson, B/M 215263. After investigating the incident it was found that Inmate Gregory Johnson, B/215263 did have stolen property in his box from Inmate Earnest Nix, B/M #162409. At approximately 1:35 p.m., I, Officer Michael Holland escorted Inmate Johnson to the Health Care Unit for a body chart and processed in segregation for Rule Violation #68. At no time was force used on Inmate Gregory Johnson, B/M #215263 by any Officer.

The above-related facts are the entirety of my involvement with inmate Brown regarding these allegations. I deny that I have violated any of his constitutional rights.

Michael Holland 4/30/08  
Michael Holland Date

STATE OF ALABAMA )

BARBOUR COUNTY )

SWORN TO AND SUBSCRIBED BEFORE ME THIS 30<sup>th</sup> DAY OF APRIL,  
2008.

Reba J. Currie  
Notary Public

My Commission Expires: 9-8-08



IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

Gregory Lewis Johnson	)	
#215265	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO. 02-CV-191-MEF
vs.	)	
	)	
Officer Brown, et. al.	)	
	)	
Defendants.	)	

**A F F I D A V I T**

Before me, the undersigned authority, a Notary Public in and for said County and State of Alabama at Large, personally appeared one Michael Padgett, who being known to me and by me first duly sworn, deposes and says on oath as follows:

My name is Michael Padgett, and I am presently employed as a Correctional Officer, with the Alabama Department of Corrections at the Ventress Correctional Facility in Clayton, Alabama. I am over the age of twenty-one (21).

In his complaint served on me, Inmate Gregory Lewis Johnson #215265 alleges that Officer Roosevelt Brown and myself handcuffed and questioned him about a box break in on July 7, 2007. He stated during the questioning, he and Officer Brown slapped, punched and kneed him several times.



Page 2  
Affidavit – Michael Padgett

I, Officer Michael Padgett do not have any knowledge of any violation of  
Inmate Gregory Johnson, #215265 at any time.

The above-related facts are the entirety of my involvement with inmate Brown  
regarding these allegations. I deny that I have violated any of his constitutional  
rights.

Michael Padgett 4-11-08  
Michael Padgett Date

STATE OF ALABAMA )

BARBOUR COUNTY )

SWORN TO AND SUBSCRIBED BEFORE ME THIS 11<sup>th</sup> DAY OF APRIL,  
2008.

Reba J Currie  
Notary Public

My Commission Expires: 9-8-08

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

Gregory Lewis Johnson	)	
#215265	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO. 02-CV-191-MEF
vs.	)	
	)	
Officer Brown, et. al.	)	
	)	
Defendants.	)	

**A F F I D A V I T**

Before me, the undersigned authority, a Notary Public in and for said County and State of Alabama at Large, personally appeared one Felicia P. Williams, who being known to me and by me first duly sworn, deposes and says on oath as follows:

My name is Felicia Williams, and I am presently employed as a Correctional Officer, with the Alabama Department of Corrections at the Ventress Correctional Facility in Clayton, Alabama. I am over the age of twenty-one (21).

In his complaint served on me, Inmate Gregory Lewis Johnson #215265 alleges that I, Felicia Williams was the cubicle officer at the time of this incident and that I stood and watched out for the supervisors for Officer Brown and Officer Padgett while they ruthlessly interrogated him.



Page 2  
Affidavit – Felicia Williams

I, Officer Felicia Williams have no knowledge of this incident.

The above-related facts are the entirety of my involvement with inmate Brown regarding these allegations. I deny that I have violated any of his constitutional rights.

Felicia Williams 4-18-08  
Felicia Williams Date

STATE OF ALABAMA )

BARBOUR COUNTY )

SWORN TO AND SUBSCRIBED BEFORE ME THIS 18<sup>th</sup> DAY OF APRIL,  
2008.

Reba S. Currie  
Notary Public

My Commission Expires: 9-8-08

06/MAY/2008 15:13:47 CDSUM 499 L-TARA CDSUM01 604

AIS: 00215263B INMATE: JOHNSON, GREGORY LEWIS RACE: B SEX: M

INST: 041-EASTERLING CORRECTIONAL CENTER JAIL CR: 0221D DOB: 07/29/1983  
 SSN: [REDACTED] PAR CONS DT: 08/2009 CURR CUST: MED2 CURR CUST DT: 08/17/2007  
 ALIAS: JOHNSON, GREG ALIAS:  
 ADM TP: NEW COMIT FROM CRT W/O REV OF STATUS: REMOVED FROM SEGREGATION  
 INIT SENT DT: 05/11/2005 ADM DT: 05/11/2005 DEAD TIME: 00Y 0CM 00D

COUNTY	SENT DT	CASE	L	CRIME	TERM	TY	PE
CALHCUN	05/11/2005	000880	Y	ASSAULT II	12Y00M00D	CS	
CALHCUN	05/11/2005	000060	Y	BURGLARY II	15Y00M00D	CC	
CALHCUN	05/11/2005	000061	Y	RECV STOLEN PROPERTY I	15Y00M00D	CC	
ETOWAH	11/05/2007	001024	Y	FRAUD USE/REPRES CREDIT CARD	01Y10M00D	CC	

NO MORE RCDS THIS TYPE AVAIL

INMATE HAS 014DISCIPLINARIES RESULTING IN LOSS OF 000Y02M00D OF GOOD TIME.

INMATE HAS 007TRANSFER RECORDS ON FILE.

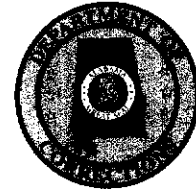
INMATE HAS 00 DETAINER/WARRANT RECORDS ON FILE.

TOTAL	TERM	REV	GOOD TIME	MIN	REL DT	TOT	GOOD TIME	SHORT DATE	LONG DATE
015Y	00M	00D	000Y	02M	00D	09/08/2009	006Y 10M 18D	09/08/2009	09/29/2019



BOB RILEY  
GOVERNOR

State of Alabama  
Alabama Department of Corrections  
Ventress Correctional Facility  
P.O. Box 767  
Clayton, Alabama 36016



RICHARD F. ALLEN  
COMMISSIONER

A F F I D A V I T

)  
)  
)  
)

STATE OF ALABAMA

I, Reba T. Currie, hereby certify and affirm that I am an ASAILL, at Ventress Correctional Facility; that I am one of the custodian of records at this institution; that the attached documents are true, exact, and correct photocopies of certain documents maintained here in the institutional files; and that I am over the age of twenty-one years and am competent to testify to the aforesaid documents and matters stated therein.

I further certify and affirm that said documents on Gregory Johnson, #162409 are maintained in the usual and ordinary course of business at the Ventress Correctional Facility; and that said documents were made at, or reasonably near the time that the transactions referred to therein are said to have occurred.

This, I do hereby certify and affirm to on this the 6<sup>th</sup> day of May, 2008.

Reba T. Currie  
Signature

SWORN TO AND SUBSCRIBED BEFORE ME THIS 6<sup>th</sup> DAY OF May, 2008.

Carolyn W. Daniels  
Notary Public  
My Commission Expires: 04/06/2010

STATE OF ALABAMA  
DEPARTMENT OF CORRECTIONS

## INCIDENT REPORT

1. Institution: <b>VENTRESS CORRECTIONAL FACILITY</b>		2. Date: <b>July 7, 2007</b>	3. Time: <b>12:45 PM</b>	4. Incident Number: _____ Class Code: _____
5. Location Where Incident Occurred: <b>Dormitory F1 Bed 58B</b>			6. Type of Incident: <b>#68; Theft, Damage or Destruction of Another's Personal Property</b>	
7. Time Incident Reported: <b>1:00 PM</b>			8. Who Received Report: <b>Sergeant Carolyn Longmire</b>	
9. Victims:				
a. <u><b>Earnest Nix</b></u>		No. <u><b>B/162409</b></u>		
b. <u><b>N/A</b></u>		No. <u><b>N/A</b></u>		
c. _____		No. _____		
10. Suspects:				
a. <u><b>Gregory Johnson</b></u>		No. <u><b>B/215263</b></u>		
b. _____		No. _____		
c. _____		No. _____		
d. _____		No. _____		
e. _____		No. _____		
11. Witnesses:				
a. <u><b>N/A</b></u>		No. _____		
b. _____		No. _____		
c. _____		No. _____		
d. _____		No. _____		
e. _____		No. _____		
f. _____		No. _____		
g. _____		No. _____		
<b>PHYSICAL EVIDENCE:</b>				
12. Type of Evidence: <u><b>N/A</b></u>				
13. Description of Evidence: <u><b>N/A</b></u>				
14. Chain of Evidence:				
a. <u><b>N/A</b></u>				
b. _____				
c. _____				
d. _____				
15. Narrative Summary: On July 7, 2007 at approximately 12:45 PM, Officer Roosevelt Brown was approached by Inmate Earnest Nix, B/162409, stating that bed # 20B had broken into his locker box and stolen (5) five packs of bugler and (1) one Pro 35 Headphone. Officer Brown then identified bed #20B which belongs to Inmate Gregory Johnson, B/215263. Officer Brown began to conduct a shakedown and no items were found. Officer Brown escorted Inmate Johnson to the lobby. At approximately 1:00 p.m., Sergeant Carolyn Longmire was notified of the incident. Sgt. Longmire questioned inmates Nix and Johnson concerning the incident. Upon further investigation it was revealed from several reliable inmates that witnessed Inmate Johnson break into Inmate Nix's box and put the items in another inmate's box. Officer Brown conducted a shakedown of said inmate box, and found the buglers, but the headphones were not found. At approximately 1:10 p.m., Sgt. Longmire reprimanded Inmate Johnson concerning his negative behavior. At approximately 1:25 p.m. Sgt. Longmire notified the On-Call Supervisor, Captain Larry M. Monk of the incident. Officer Brown initiated disciplinary action against Inmate Johnson for Rule Violation #68, Theft, Damage, or Destruction of Another's Personal Property from Administrative Regulation #403. At approximately 1:35 p.m., Officer Michael Holland escorted Inmate Johnson to the Health Care Unit. Inmate Johnson was examined by Nurse Vickie Young and released (See attached body chart). At approximately 1:45 p.m., Officer Holland processed Inmate Young into Administrative Segregation Holding Cell #E1-1A. No further action taken at this time.				

Roosevelt Brown, CO

Distribution: ORIGINAL AND ONE (1) COPY to Central I & I Division  
COPY to Central Records OfficeCOPY to Deputy Commissioner of Operations (Class A and B ONLY)  
COPY to Central Records Office

Shubert No. 5116

DEFENDANT'S  
EXHIBIT

6



## EMERGENCY

ADMISSION DATE <b>7 / 7 / 07</b>		TIME <b>120 PM</b>	ORIGINATING FACILITY <b>VCF</b> <input type="checkbox"/> SIR <input type="checkbox"/> POL <input type="checkbox"/> ESCAPEE <input type="checkbox"/>		<input type="checkbox"/> SICK CALL <input type="checkbox"/> EMERGENCY <input checked="" type="checkbox"/> OUTPATIENT	
ALLERGIES <b>Penicillin</b>			CONDITION ON ADMISSION <input checked="" type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR <input type="checkbox"/> SHOCK <input type="checkbox"/> HEMORRHAGE <input type="checkbox"/> COMA			
VITAL SIGNS: TEMP <b>98.8</b> <b>WT. 168</b>		<input checked="" type="checkbox"/> ORAL <input type="checkbox"/> RECTAL	RESP. <b>18</b>	PULSE <b>92</b>	B/P <b>110 / 86</b>	RECHECK IF SYSTOLIC <b>1</b> <100> 50
NATURE OF INJURY OR ILLNESS <b>S. "I'm going to seg."</b>			ABRASION <input checked="" type="checkbox"/> <b>none</b> CONTUSION <input checked="" type="checkbox"/> <b>none</b> BURN <input checked="" type="checkbox"/> <b>none</b> FRACTURE <input checked="" type="checkbox"/> <b>none</b> LACERATION / <input checked="" type="checkbox"/> <b>none</b>			
PHYSICAL EXAMINATION <b>O. 23 yr. old Bfm presents to HCU C. Doc office for doc body chart per seg. Denies pain or discomfort. Denies physical contact or attraction to anyone. No known broken skin or raised areas noted. A. Doc Body Chart  P. Release to DOC</b>			<p>PROFILE RIGHT OR LEFT</p> <p>RIGHT OR LEFT</p>			
			ORDERS / MEDICATIONS / IV FLUIDS TIME BY			
DIAGNOSIS			DEFENDANT'S EXHIBIT 17			
INSTRUCTIONS TO PATIENT <b>Sign up for sick call if any problems arise</b>						
DISCHARGE DATE <b>7 / 7 / 07</b>		TIME <b>135 PM</b>	RELEASE / TRANSFERRED TO <input checked="" type="checkbox"/> DOC <input type="checkbox"/> AMBULANCE <input type="checkbox"/>		CONDITION ON DISCHARGE <input checked="" type="checkbox"/> SATISFACTORY <input type="checkbox"/> POOR <input type="checkbox"/> FAIR <input type="checkbox"/> CRITICAL	
NURSE'S SIGNATURE <b>T. Young</b>		DATE <b>7-7-07</b>	PHYSICIAN'S SIGNATURE <b>J. Thompson</b>		DATE <b>7/7/07</b>	
INMATE NAME (LAST, FIRST, MIDDLE) <b>Johnson, Marcus</b>			DOC# <b>215263</b>	DOB <b>7-28-83</b>	R/S <b>R/Lm</b>	FAC. <b>VCF</b>



ALABAMA DEPARTMENT OF CORRECTIONS  
DISCIPLINARY REPORT

DOC Form 225B (Revised 7/92)

DISC. 07-176

1. INMATE: Gregory Johnson CUSTODY: MED AIS NO.: B/215263
2. FACILITY: VENTRESS CORRECTIONAL FACILITY
3. The above named inmate is being charged by Officer Roosevelt Brown with a violation of rule #58 specifically: Theft, Damage or Destruction of Another's Personal Property from regulation # 403, which occurred on or about July 7, 2007, at (time) 12:45 PM (am/pm), Location: Dormitory F1 Bed 58B. A hearing on this charge will be held after 24 hours from service.
4. Circumstances of the violation(s) are as follows: You, Inmate Gregory Johnson, B/215263 did break into inmate Earnest Nix, B/162409 locker box and steal (5) pack's of buglers and (1) Pro 35 headphone.
5. July 7, 2007 Roosevelt Brown, CO Roosevelt Brown CO  
Date Arresting Officer / Signature / Rank
6. I hereby certify that I have personally served a copy of the foregoing upon the above named inmate and I informed inmate of his right to present a written or oral statement at the hearing and to present written questions for the witnesses on this the 10<sup>th</sup> day of July, 2007, at (time) 12:50 (am/pm)
7. [Signature] [Signature] 215263  
Serving Officer / Signature / Rank Inmate's Signature / AIS Number
8. Witnesses desired? NO [Signature] YES [Signature] 215263  
Inmate's Signature Inmate's Signature
9. If yes, list: Cornell's Williams, Ervin House
10. Hearing Date 7-16-07 Time 12:45 PM Place Admin
11. Inmate must be present in Hearing Room. If he is not present explain in detail on additional page and attach.
12. A finding is made that inmate (is / is not) capable of representing himself.  
[Signature]  
Signature / Hearing Officer
13. Plea: [Signature] Not Guilty [Signature] Guilty
14. The Arresting Officer, Inmate, and all witnesses were sworn to tell the truth.  
[Signature]  
Signature / Hearing Officer
15. Arresting Officer's testimony (at the hearing): No statement, Inmate Johnson was found not guilty due to a Due Process violation on line # 3)

Annex C to AR 403 ( Page 1 of 3 pages )



16. Inmate's Testimony: Not guilty.

Witness: N/A

Substance of Testimony:

Witness: N/A

Substance of Testimony:

Witness: N/A

Substance of Testimony:

17. The Inmate was allowed to submit written question to all witnesses.  
None submitted

Mary R. Taylor, CO LT  
Signature / Hearing Officer

18. The Following witnesses were not called

1. Cornelius Williams B/237396

2. Irvin House B/227638

3. N/A

reason not called

Inmate found not guilty did not need.

Inmate found not guilty did not need.

19. After hearing all testimony, the Hearing Officer makes the following findings of fact: (Be Specific)  
The Hearing Officer finds that : On July 07, 2007 at approximately 12:45 PM, inmate Gregory Johnson B/215263 was charged with rule violation # 58, which was the wrong rule violation # for theft, Damage or Destruction of another's personal property.

20. Basis for Finding of Fact: Based on the Disciplinary form having the wrong rule violation number on it, I find inmate Johnson not guilty as charged. I find that his due process was violated.

21. Hearing Officer's Decision: Guilty X Major

X Not Guilty Minor

22. Recommendation of Hearing Officer: Not guilty.

Mary R. Taylor, CO LT  
Signature / Hearing Officer

Mary R. Taylor, CO LT

Typed Name and Title

23. Warden's Action - Date 7-17-07

Approved

Disapproved

Other (specify) File - Re-initiate

Reason if more than 30 calendar days delay in action.

25. I hereby certify that a completed copy of the foregoing Disciplinary Report was served on the above  
Named inmate on this the 19 day of July 2007, at (time) 7:30 (am / pm).

Anthony H. New, CO.  
Signature / Serving Officer / Title

Gregory Johnson 215263  
Inmate's Signature and AIS Number  
Annex C of AR 403 (page 2 of 3 pages)